

BEFORE THE HEARING EXAMINER FOR THE CITY OF RENTON

RE: Maplewood Park East

Preliminary Plat

LUA12-018, ECF, PP

FINAL DECISION

Summary

The Applicant requests preliminary plat approval for a fourteen lot residential subdivision. The preliminary plat is approved with conditions. Street modification requests for Road B are denied without prejudice due to lack of supporting information in the administrative record. Staff will be able to reprocess the request at the administrative level without adding any significant delay to processing of the application. Requests to face homes towards NE 2nd street is deferred to building permit review where it is normally addressed. Orientation cannot be addressed at this time because there is no information in the record as to how staff has applied the orientation standards in the past and the orientation criteria are at least partially dependent upon specific housing design, which is not review until building permit review. Ultimately, although the Applicant is understandably adverse to further design modifications, placing Road B along the northern perimeter of the subdivision would resolve the orientation issues of the subdivision. Such an alternative design would be contrary to regulations that "prefer" alley access, but given the unique circumstances of the plat (only one block of homes between a park and a street), this is one situation where alley access is not ideal.

Testimony

City Staff

Vanessa Dolbee, Senior Planner, City of Renton

Ms. Dolbee described the Maplewood Park East Preliminary Plat. The site is located on the NE corner of NE 2nd Street and 152nd Avenue SE (Rosario Avenue NE). The site is a vacant 4.5 acres, zoned Residential 4 (R-4) dwelling units per net acres and is in the Residential Low Density designation in the Comprehensive Plan. The net density is proposed to be 4.02 dwelling units per acre. Lot sizes vary from 8,135 to 10,926 square feet. Two tracts are proposed, a stormwater tract (Tract A) and a landscape/utilities tract (Tract B). The site contains 271 protected trees of which 18 are proposed to be retained with 103 replacement trees. The site contains no critical areas. Street frontage improvements would be provided along NE 2nd Street and new internal road systems are proposed. On September 24, 2012 the SEPA Responsible Official issued an MDNS with four conditions. No appeals were filed. One public comment related to traffic was received. The proposal is consistent with the Comprehensive Plan and, as conditioned, will be compliant with the zoning code. The lot widths do not currently conform. The landscape plan does not currently meet the city code with respect to street trees or significant tree retention and/or replacement. There was a road modification request issued on January 3, 2012. New information was subsequently provided that demonstrated a lack of critical areas on the site. The lack of critical areas triggered street frontage requirements. Staff is recommending modifications to the requirements of the January 3rd letter. These include the elimination of Road C, the extension of Road B and the frontage and asphalt width requirements along the internal roads and on 152nd Avenue SE.

In response to the Examiner, Ms. Dolbee stated that Road A will still be directly across the street from an existing house. The public comment letter expressed concern about headlight glare on their house from Road A. Staff recommends that landscape screening be provided around the stormwater detention facility on the outside of fencing or along the perimeter of the tract. Police, fire, school, water, sewer and stormwater facilities are adequate as conditioned.

The Applicant is proposing both rain gardens and a stormwater pond in conformance to the 2009 King County Stormwater Manual. Staff recommends approval of the Maplewood Park Preliminary Plat subject to ten conditions (the original eleven recommended conditions minus condition #5).

In response to the Examiner, Ms. Dolbee stated the Applicant will meet the City's required LOS. She also noted the definition of a significant tree is a 6" diameter tree as measured 4' above the ground. With respects to impacts to the house at the terminus of Road A, Ms. Dolbee stated MDNS measures were considered, but that the design as proposed is the best solution.

1 With respect to the extensive changes recommended on the plat by the conditions of approval, Ms.
2 Dolbee stated that though the changes were significant, the Staff felt that the potential impacts of the
3 changes would be to reduce the project's impacts and that the Applicant would not need to apply for a
4 plat alteration.

4 **Applicant**

5 Tiffany Brown, Burnstead Construction Company

6 Ms. Brown stated they had only had the staff report for three days and that they were frustrated by
7 the extensive conditions. Many of the conditions had not been mentioned in the year and a half since
8 the project had started. They stated that the code table for the R-4 zone allowed lot size, width or
9 depth could be reduced to achieve the allowable density. She stated the plat always looked as it did.
10 Ms. Brown also stated the City said they had no plans for extending Rosario Avenue NE. Burnstead
11 pointed out that extension of that road cannot go anywhere because of critical areas. The Applicant
12 has always stated there are no critical areas on site or off-site buffer impacting the site. They did not
13 learn until July 2012 that they had to prove there were no wetlands on site. Burnstead agreed to allow
14 a third party reviewer, Otak, to analyze whether the off-site wetland buffer impacted the subject site.
15 The wetland has since disappeared. The Applicant feels they have to completely change their plat at
16 a very late date with little notice. They have gone back to the drawing board three days before a
17 hearing. Ms. Brown stated there is no benefit in these conditions of approval which came out of left
18 field. Ms. Brown stated they'd had many meetings with the City and feel they've been led astray by
19 the Staff.

15 Matt Hough, CP I H, Project Civil Engineer and Planner

16 In response to the Examiner, Mr. Hough stated Rosario Avenue NE cannot be extended to the south
17 because of existing development and critical areas south of NE 2nd Street. The same is true north of
18 the project. The two northern parcels are parks parcels which are presently undeveloped. The City
19 stated they had no intention of approving this road to the north. Road A was designed the way it was
20 to allow for connectivity to the north in lieu of extending Rosario Avenue NE. Mr. Hough stated they
21 had this plan layout for 18 months with the exception of modifications in response to the January 3rd
22 letter. They do not see how the footnote to the R-4 table is not applicable here. Mr. Hough stated he
23 could see where Staff had made an effort to minimize changes to the plat, but the changes they have
24 asked for in the Staff Report are new and significant and coming very late in the process. The
25 Applicant does not see a benefit to the proposed changes. They also note that improving Rosario
26 Avenue NE to the Staff's recommendations will create an off-set intersection that may not be
approved by Public Works. Mr. Hough stated they had done what they could do to reduce the
impacts of this project while still meeting the density requirements.

1 **Public Comment**

2 Shara Hagerman

3 Ms. Hagerman stated she lived in a home on 132nd (NE 2nd Street) in the County facing this
4 development. Ms. Hagerman stated her neighborhood is established. She stated she had spoken with
5 Staff about the orientation of the houses. Ms. Hagerman was hoping that the homes would face the
6 street, rather than the backs of the houses. Ms. Hagerman said the City has assured them the houses
7 would face them, but that the Staff Report makes it clear the houses will face internally to the plat.
8 The neighborhood character would be improved by having the houses face the existing streets. Ms.
9 Hagerman said she was worried about the drainage pond. She stated most of the drainage ponds in
the area were ugly, large and insufficiently screened. Ms. Hagerman also noted the Staff Report
stated the schools in the area are in the Renton School District when they are in fact in the Issaquah
School District.

10 Robert Hagerman

11 Mr. Hagerman echoed his wife's comments. He wants to look at front doors and front yards, not
12 back fences or driveways.

13 Terry Taylor

14 Mr. Taylor stated he was the person who wrote the public comment letter. He stated Road A is
15 directly across from his house. He is concerned about excessive traffic from this road as they are
16 trying to back out of their driveway. Mr. Taylor stated the location of Road A is very poorly located
with respect to his house and the placement of his windows. He is concerned about traffic and
headlight glare impacting his home. He also does not understand why Road A is located where it is.

17 In response, Mr. Hough stated that the City required a north-south connection that was not Rosario
18 Avenue NE.

19 Mr. Taylor asked what will happen with Road A. The property north of Road A is where the
20 Duwamish sludge was placed when the river was cleaned up. It is now pasture land, though it is
21 designated by King County as park land. Mr. Taylor is not against development, just the impacts to
his house. He would like to see Road A farther east to a location that is opposite a more suitable use,
22 such as garages or vacant roads. This development represents a significant change from the way his
property has functioned for the 38 years he has lived there. Mr. Taylor also noted that NE 2nd Street
23 has become a cut through route and traffic has been increasing in recent years.

24 Doug Bornstine

25 Mr. Bornstine lives next door to the Taylors. Mr. Bornstine is also concerned about traffic. He's been
26 working with King County to try to discourage cut through traffic on NE 2nd Street. The traffic is

1 moving significantly faster than the posted 25 mph or the recommended 20 mph. The road is narrow,
2 unlined and not traffic controlled. Some of the cut through traffic is moving at 60 mph. Mr.
3 Bornstine is working with King County to get cameras installed or additional police presence on the
road. Mr. Bornstine stated the parcel to the north of the subject is not landlocked. It extends to 156th
Street. He does not see the need for a north-south connector here.

4 **Rebuttal**

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6 Upon rebuttal, Ms. Dolbee stated that the R-4 zone has residential design standards. The homes are
7 required to be accessed by Road B. The residential design guidelines for primary entries require the
house to have wrapped porches and front doors facing and engaging the street. The fronts of the
8 homes will face NE 2nd Street and Road B will function more as an alleyway for the three southern
lots. NE 2nd Street is the primary street. Road B has been reduced through road modifications to
9 function more as an alleyway. Lots 6-8 will face the rear of the houses on Lots 12-14. Staff requests
a further condition of approval that requires houses to face NE 2nd Street.

10 Ms. Dolbee agreed that the children from the houses would attend school in the Issaquah School
11 District. Ms. Dolbee described the frontage improvements and road designs being recommended by
Staff for NE 2nd Street.

12 With respect to road alignment and the requirement for a north-south connector, the City anticipates
13 there will be a connection to the property to the north. There are two large parcels there. The City is
attempting to preserve the possibility of future connectivity. There is existing right of way on the
14 west side of the parks properties, but north of there are housing developments. Therefore, 152nd
Avenue SE cannot be feasibly extended. The location of Road A is in a much more feasible and
15 likely location for future road connections.

16 Ms. Dolbee read the requirements for reducing lot widths. She stated the City deducts road width
17 when considering density. The City has already allowed two road width modifications to reduce the
width of the internal roadway. If the City required the full roadway width of the code, there would be
18 less land available to count toward the net density. Ms. Dolbee stated by allowing the roadway
modifications and requiring standard lot widths, the plat is likely to maintain 13 of the 14 proposed
19 lots. Whereas in the circumstance where the City denied the roadway modifications but allowed for
reduced lot widths, the plat would likely be reduced to less than 13 lots. The Staff agreed to reduce
20 the street widths to allow for the opportunity for increased density.

21
22 Ms. Dolbee stated the road realignment was not a mitigation measure from environmental review
and is more appropriately a condition of approval. Ms. Dolbee stated the realignment of Road B will
23 allow for an additional entry to the King County Park land. Staff recommends that the improvements
happen within the existing right of way plus an additional three feet. Rosario Avenue NE is currently
24 unimproved. Ms. Dolbee stated the code favors alley configurations. There is no requirement to
provide 15 feet of landscaping, the requirement is 10 feet.
25
26

1 Kayren Kittrick, City of Renton, Lead Construction Inspector

2 Ms. Kittrick stated Applicants are required to provide frontage improvements along their entire
3 frontage, but the City has recommended reduced requirements and a realigned internal road network.
4 Staff also stated that the location for Road A could potentially be realigned to move it away from its
present location. There will be sidewalks and street lights on NE 2nd Street.

5 Tiffany Brown

6 Ms. Brown stated the alley load requirement for Lots 12-14 is last minute. She stated they were
7 required to put in a 10 foot landscape tract adjacent to all the public roads inside the sidewalk and
8 landscape strips. The homes do not start for 50 feet beyond the landscaping. Also, the homes are at a
9 different grade and behind privacy fencing and the street trees. The impact of alley loaded lots within
the subdivision is much more significant than having the rear of the houses facing NE 2nd Street. She
10 noted an alley is not an alley if only half of the homes utilize it as such and the others front on it. The
Applicant is very concerned that down the road they will be penalized for the offset of the Rosario
11 Avenue NE intersection that is being required here. Ms. Brown also stated that the code does not
discuss rounding issues with density and that the requirements here are new.

12 Matt Hough

13 Mr. Hough stated that the plat has not changed and the City never brought up the lot width issues.
14 The lot sizes are larger than required. Road C originally was just a hammerhead. They extended it
15 through to provide pedestrian connectivity. Mr. Hough stated he does not understand the process and
that information from the City has changed. The secondary connection is not needed because of
16 intersection spacing and impacts significant trees. The design is better aesthetically and
environmentally to leave the Rosario Avenue NE right of way vacant. The discussions with the City
17 had always been a pedestrian connection on Rosario Avenue NE. The Applicant did originally have
Road A in another location but the City had them move it. The Applicant thought the road
18 modification they requested included the waiver for the lot width. They also said the City had
initially and often stated they did not need to extend Rosario Avenue NE.
19

20 **Exhibits**

21
22 Exhibits 1-21 listed on page 2 of the October 16, 2012 staff report are admitted into evidence at the
public hearing. The following additional exhibits were also admitted during the hearing:
23

24 Ex. 22: Vanessa Dolbee's presentation.

25 Ex. 23: Email correspondence between Staff and the Applicants dated October 23, 2012.

26 Ex. 24: A revised interior road network.

FINDINGS OF FACT

Procedural:

1. Applicant. Burnstead Construction, LLC.

2. Hearing. The Examiner held a hearing on the subject application on October 23, 2012 in the City of Renton City Council Chambers.

3. Project Description. The Applicant is requesting Preliminary Plat approval for a 14 lot single family residential subdivision. The site is located on the NE corner of NE 2nd Street and 152nd Avenue SE, zoned Residential 4 (R-4) dwelling units per net acres. Lot sizes vary from 8,135 to 10,926 square feet. 40,946 square feet would be dedicated for new public roadways, and a 31,376 square foot stormwater tract is proposed. The net density is proposed to be 4.02 dwelling units per acre. The site is currently vacant and contains no critical areas. The site contains 271 protected trees of which 18 are proposed to be retained with 103 replacement trees. The project would result in 11,000 cubic yards of excavation with 10,000 cubic yards of fill. Street frontage improvements would be provided along NE 2nd Street and new internal road systems are proposed. The City granted a street modification request, with conditions, on January 3, 2012 to allow for modifications from the City's street code for the new internal streets. With the application the Applicant submitted a storm drainage report, geotechnical report, wetland reconnaissance, and a traffic study.

4. Characteristics of the Area. The project site is surrounded on three sides by single-family development. The property adjoining to the north appears to be vacant from the aerial photograph included in the staff report. The surrounding property to the east is within the City of Renton and is zoned R-4. The subject is bordered by unincorporated King County land to the north, south and west. All of the unincorporated King County properties are zoned R-4 by the County.

5. Adverse Impacts. There are no significant adverse impacts associated with the proposal. There are no critical areas on site and a mitigated determination of non-significance has been issued for the proposal. As determined in Finding of Fact No. 6, the project will be served by adequate public services and infrastructure.

One issue of significant concerns to neighbors was the orientation of the homes along NE 2nd Street. Adjacent property owners requested the houses on Lots 12-14 be required to face NE 2nd Street so that the existing neighbors did not have to look at the backs of houses across NE 2nd Street. Staff stated the Primary Entry guidelines (RMC 4-2-115(3)) would require the developer to construct the houses facing the street. The Applicant argued that requiring the houses on Lots 12-14 to face NE 2nd Street would be injurious to the houses on Lots 6-8 who would have to look directly across a reduced width road at garages and the backs of houses; whereas there will be a landscape strip, sidewalk,

1 landscape buffer with street trees, a privacy fence and a grade change between the houses in the plat
2 and the existing neighbors across NE 2nd Street. As discussed in Conclusion of Law No. 5, this issue
3 will be deferred to the staff review level where the orientation of housing is more appropriately
4 addressed.

5 6. Adequacy of Infrastructure/Public Services. The project will be served by adequate
6 infrastructure and public services as follows:

7 A. Water and Sewer Service. The site will be served by adequate water and sewer. Water
8 service will be provided by Water District #90. A water availability certificate will be
9 required to be submitted to the City prior to or along with Construction Permit
10 Application.

11 Sewer service will be provided by the City of Renton. There is an 8-inch sewer main
12 located in NE 2nd Street. Extension of an 8-inch sewer main in the new roadways will be
13 required. The subject parcel falls within the assessment area known as the Wyman
14 latecomer Agreement. The Wyman final sewer assessment is \$45,948.04. Payment of this
15 fee will be required prior to issuance of utility construction permit. A 6-inch sewer stub
16 shall be provided to each lot.

17 B. Police and Fire Protection. Police and Fire Prevention staff indicates that sufficient
18 resources exist to furnish services to the proposed development; subject to the condition
19 that the Applicant provides Code required improvements and fees. A Fire Impact Fee,
20 based on new single-family lot with credit given for the existing single-family residence,
21 was recommended as part of the SEPA review, in order to mitigate the proposal's
22 potential impacts to City emergency services. The fee is payable to the City as specified by
23 the Renton Municipal Code.

24 All new construction must have fire hydrants capable of delivering a minimum of 1,000
25 gpm. One primary hydrant is required within 300 feet of the buildings. Homes larger than
26 3,600 square feet will require an additional hydrant and may require sprinklers. Final
determination will be made by the Fire Department. Sewer service will be provided by the
City of Renton.

27 C. Drainage. Drainage has been adequately addressed through the preparation of a drainage
28 report that proposes storm drainage facilities that staff have determined complies with the
standards of the 2009 King County Surface Water Design Manual as amended by the City
of Renton. Under existing conditions the site drainage infiltrates as the site is currently
undeveloped and forested. The storm drainage and TESC standards for the project are

1 established by the 2009 King County Surface Water Manual (KCSWM) and City of
2 Renton Amendments to the KCSWM, Chapters 1 and 2. Based on the City's flow control
3 map, this site falls within the Flow Control Duration Standard, Forested Conditions. The
4 development site is required to provide Basic Water Quality treatment in addition to Level
5 2 flow control.

6 The Applicant submitted a Preliminary Stormwater Drainage Report ("TIR") prepared by
7 CP I H Consultants, dated March, 8 2012 (Ex. 11). Based on the provided TIR the
8 Applicant is proposing to develop an on-site combined detention and water quality pond in
9 conjunction with a series of on-site rain gardens. The drainage report discusses meeting
10 the area specific flow control requirement under Core Requirement #3. Additionally a
11 Level 2 analysis will be required. A Construction Stormwater General Permit from the
12 Department of Ecology and a Stormwater Pollution Prevention Plan (SWPPP) would be
13 required for development of the subject site.

14 The provided Geotechnical Report (Ex. 12) evaluated the on-site soils to determine their
15 percolation rate. Based on the provided Geotechnical Report the whole scale infiltration
16 of development stormwater would not be feasible as the silty-sand with gravel observed in
17 the test pits has a low permeability and typically would not be suitable for infiltration of
18 stormwater on a large scale.

19 D. Parks/Open Space. The MDNS for the project requires the Applicant to pay a Parks and
20 Recreation Impact fee at the time of final plat recording. The impact fees provide for
21 adequate parks and open space.

22 E. Streets. The proposal is served by adequate streets. There are currently no street
23 improvements fronting the site on NE 2nd Street. An undeveloped public right of way
24 borders the subject's western property line (152nd Avenue SE/Rosario Avenue NE). The
25 proposed access to Lots 1-6 would be provided along a new public road, Road A. Lots 11
26 - 14 would be accessed via a new public road, Road B. In addition to Road A and B, the
Applicant has proposed a new public road, Road C. As proposed, both Road C and Road
A would provide direct access from NE 2nd Street and Road B would connect Road C and
Road A through the middle of the proposed development.

The residential access road standard for a public street is a 53-foot right of way including
five-foot sidewalks and eight-foot landscaping strips on both sides, and two ten-foot travel
lanes and a six foot parking lane on one side (RMC 4-6-060(F2)). The City's private street
standards are applicable to streets that access six or fewer lots, provided that at least two of
the lots abut a public right of way. Private streets are only allowed in the circumstance
where there will be no future traffic and/or pedestrian circulation through the subdivision

1 to or to serve adjacent property. The minimum standard from private streets is a 26-foot
2 easement with a twelve-foot pavement width and an approved turnaround.

3 A street modification was recommended by a letter dated January 3, 2012 by the
4 Development Services Division Director, modifying the street standards for the subject
5 development (Ex. 10). The proposed modifications are summarized as a 'pavement width
6 of 20 feet, without separate sidewalks" for internal Roads B and C and a reduction in these
7 right of way widths to 20 feet. The letter partially denied the requested modifications and
8 recommended others for approval by the hearing examiner with conditions. The January 3,
9 2012 modification recommended a reduction in the street width on Roads B and C to 20-
10 feet of pavement with no parking or sidewalks, but with a 6-foot pedestrian walkway
marked on one side of the pavement area. The right-of-way was recommended to be a
minimum of 26 feet in width. This modification is primarily consistent with the City's
private street standards. The January 2, 2012 modification recommendation also required
Road A to comply with City of Renton street standards, resulting in 53 feet of required
right-of-way, consistent with a public residential access street.

11 RMC 4-6-060(E1) requires the dedication of right of way where the existing width for any
12 right of way adjacent to a development site is substandard. RMC 4-6-060(C) requires the
13 extension full of street improvements along the entire border of any development site
14 adjacent to a public right of way. In this case, the Applicant would be required to dedicate
15 land and construct full street improvements along Rosario Avenue NE/152nd Avenue SE
16 along its entire western border. Staff testified that when the Applicant first applied for the
17 plat, they were under the assumption that a previously existing wetland to the west of the
18 subject property still existed. The Applicant testified they had been under the assumption
19 from the beginning that this wetland did not exist. They stated Staff had told them from
20 the pre-application stage that street improvements along Rosario Avenue NE/152nd
21 Avenue SE would not be required. The Staff testified they did not initially require
22 extension of the street improvements because the presumed wetland and/or its buffer could
have been impacted by the extension of Rosario Avenue NE/152nd Avenue SE. Staff
requested proof that the previously existing wetland was still there. On July 15, 2012, the
Applicant provided evidence that the wetland had indeed disappeared. At the hearing,
Staff testified the lack of wetlands and buffers in the project vicinity triggered the code
requirement to provide street improvements along all frontages, including Rosario Avenue
NE/152nd Avenue SE. Frontage improvements are also required to be constructed along
NE 2nd Street.

23 Staff testified that they were now recommending modified half street improvements to
24 Rosario Avenue NE/152nd Avenue SE which would result in a street extension of only
25 about half the depth of the plat and the need for a dedication of three feet along the
26 western border. They also recommended Road C be eliminated entirely and the extension
of Road B from Road A in the east to intersect with the newly constructed Rosario Avenue
NE on the west. Staff justified this request by noting that even though there are no longer

1 concerns about a wetland impacting the site, existing development patterns to the north
2 would prohibit Rosario Avenue SE from ever being extended in that direction. Staff
3 indicated the improved Rosario Avenue SE to Road B would provide an extra possibility
4 for future connection to the King County park land to the north of the plat. Road A is
5 already proposed to be a public street connecting NE 2nd Street to the King County park
6 property to the north. Staff testified with the exception of these changes, they continue to
support the road modifications recommended by the January 3, 2012 letter. Road B would
now serve nine lots (Lots 6-11 and 12-14) and be connected to public roads on both
terminuses (Road A and Rosario Avenue NE).

7 The Applicant stated they had been in the design process for 18 months and only found out
8 three days before the hearing that Staff was recommending an almost entirely new street
9 layout and improvements to 152nd Avenue SE/Rosario Avenue NE. The Applicant stated
10 the City had told them in the pre-application meeting and throughout the design process
11 that they had no intention of requiring the Applicant to construct half-street improvements
12 to 152nd Avenue; this is, in fact, why the Applicant had designed Road A to terminate at
the northern property boundary. The design of Road A provided connectivity to the King
County undeveloped park land to the north in a location that might be feasibly extended to
the north. 152nd Avenue SE is located along an alignment that cannot be feasibly extended
north due to existing development and critical areas.

13 The Applicant also stated the construction of half street improvements to 152nd Avenue
14 NE will create an intersection misalignment. The Applicant is concerned that the
15 misalignment will not be allowed and that they will be required to once again redesign the
16 plat at a later stage. Staff stated the requirement for the improvements on Rosario Avenue
17 NE was triggered by the new knowledge that there was no wetland in the vicinity of 152nd
18 Avenue NE as there had previously been. The Applicant noted that information was given
19 to the City in July after an exhaustive attempt by the Applicant to prove the lack of the
critical area. The Staff had over three months to provide the new road layout
recommendations to the Applicant but did not so do before the Staff Report (Ex. 1) was
issued three days before the hearing.

20 Some comments were made at the hearing by adjoining property owners related to the
21 location of Road A. Road A is currently designed in such a way that it aligns with the
22 driveway and front windows of the house to the south across NE 2nd Street. The property
23 owner expressed concern regarding his safety when attempting to back out of his
24 driveway and also of the impact of headlights sweeping across his windows. Staff
25 suggested studies show offsetting the new road from the existing driveway would be
26 more dangerous than aligning the two. Another adjacent property owner expressed
concern regarding the increasing cut through traffic on NE 2nd Street which has become
hazardous in recent years with the increase in cars traveling at higher than posted speeds.
Under the preponderance of evidence standard, the Examiner must side on the staff's
conclusions on this issue. The City's public works department, which has extensive

1 experience in traffic design and safety, has determined that the safest place for
2 subdivision intersections is directly across from driveways and the department has also
3 concluded that NE 2nd St. is adequately designed to accommodate traffic generated by the
4 proposal. The neighbors have not provided any specific evidence to outweigh this expert
5 testimony. The location of the subdivisions access points and NE 2nd St. is determined to
6 be adequate and to not create any significant adverse impacts on neighboring property
7 owners.

8 The City code requires extension of 152nd Avenue (Rosario Avenue NE) with full
9 frontage improvements along the west boundary of the site, adjacent to the existing public
10 right-of-way. City Staff has argued the development of Road A to the north, will
11 accomplish the same purpose by providing a northern connection through the subject site
12 but that they recommend improvements to Rosario Avenue NE to allow for a secondary
13 access to the King County park land should it ever be developed. The Applicant argues
14 the King County Land extends all the way to 156th Avenue SE and that Road A already
15 functions as a secondary connection without the requirement to provide a less than full
16 length, half street improvement that creates a misaligned intersection. Staff contents the
17 elimination of Road C and extension of Road B to intersect with the newly improved
18 Rosario Avenue NE will retain a secondary access into the plat while reducing the curb
19 cuts on NE 2nd Street.

20 The conditions of approval will require street extension along the west boundary of the
21 site (along 152nd Avenue) to extend north from NE 2nd Street to the intersection with
22 Road B. The street improvements in Rosario Avenue NE are further modified to require
23 20 feet of pavement, 8 foot planter and 5 foot sidewalk on the west side of the street. This
24 would result in the need to provide 3 feet of dedication along the entire western property
25 edge.

26 A condition of approval will require the Applicant to provide an updated plat plan for
review and approval by the Development Services Division with the re-designed road
system prior to construction permit issuance.

F. Parking. Sufficient area exists, on each lot, to accommodate required off street parking for
a minimum of two vehicles. NE 2nd Street will accommodate parking on both sides. New
Road A will accommodate parking on one side. New Road B will no accommodate on-
street parking.

G. Tree Retention. The Applicant submitted two Arborist reports dated February 14, 2012
and July 24, 2012 (Ex. 16). The Arborist reported the site contains 271 significant trees.
Of these, the Applicant's Arborist determined 91 are dead and/or dangerous. 78 of the
trees are located in the proposed roadway and 18 are proposed to be retained. The City's
Urban Forester and Natural Resources Manager, Terry Flatley, visited the subject site and

1 reviewed the February 14, 2012 Arborist report. Mr. Flatley presented his findings via e-
2 mail on June 27, 2012 (Ex. 21). Based on the City's Urban Forester's conclusions, 16 trees
3 should be subtracted from the dead and/or dangerous list included in the February 14,
4 2012 Arborist report, resulting in a total of 75 dead and/or dangerous trees. Based on the
5 number of significant trees, the Applicant must retain the 18 trees proposed to be retained,
6 and provide an additional 114 replacement trees at 2-inch caliper. The Applicant has
7 proposed to plant only 103 replacement trees. The Applicant must provide an updated tree
8 retention worksheet and planting plan that meets the minimum retention and/or
9 replacement requirements.

10 **Conclusions of Law**

11 1. Authority. RMC 4-7-020(C) and 4-7-050(D)(5) provide that the Hearing Examiner shall hold
12 a hearing and issue a final decision on preliminary plat applications. RMC 4-9-250(C)(2) grants the
13 Community and Economic Development Administrator or his/her designee the authority to approve
14 waivers to street improvements. The waiver is classified as a Type I permit by RMC 4-8-080(G).
15 However, RMC 4-8-080(C)(2) requires consolidated permits to each be processed under "the highest-
16 number procedure". Staff testified that the street waiver request has been consolidated with the
17 preliminary plat application, which is classified as a Type III application by RMC 4-8-080(G).
18 Consequently, the street waiver request is also classified as a Type III application, which is subject to
19 hearing examiner approval pursuant to RMC 4-8-080(G).

20 2. Zoning/Comprehensive Plan Designations. The subject property is zoned Residential 4
21 dwelling units per net acre (R-4). The comprehensive plan map land use designation is Residential
22 Low Density (RLD).

23 3. Review Criteria. Chapter 4-7 RMC governs the criteria for subdivision review. Applicable
24 standards are quoted below in italics and applied through corresponding conclusions of law.

25 **RMC 4-7-080(B):** *A subdivision shall be consistent with the following principles of acceptability:*

- 26 1. *Legal Lots: Create legal building sites which comply with all provisions of the City Zoning Code.*
2. *Access: Establish access to a public road for each segregated parcel.*
3. *Physical Characteristics: Have suitable physical characteristics. A proposed plat may be denied because of flood, inundation, or wetland conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat.*

1 4. *Drainage: Make adequate provision for drainage ways, streets, alleys, other public ways, water*
2 *supplies and sanitary wastes.*

3 4. As noted in Finding of Fact 6, this criterion is not satisfied with respect to lot width
4 requirements (RMC 4-2-110). The Applicant contends the lot layout and widths have not been altered
5 in the 18 months since the plat was originally proposed. It is not clear from the administrative record
6 whether Staff addressed this concern during the review process. The Applicant stated they had
7 assumed their request for street modifications encompassed a request for the plat layout as presented
8 and that the Staff's recommended approval of the street modifications represented tacit approval of
9 the plat as presented. There is nothing in the administrative record or in the testimony that suggests
10 the Staff was aware of or in agreement with the Applicant's assumption that the street modification
11 represented approval of the plat as presented.

12 The Applicant also argued that RMC 4-2-110D-11 should apply because a reduction in lot width is
13 necessary to achieve the maximum density on the plat. Staff argues the opposite stating the Applicant
14 could achieve the allowable density without it. In either case RMC 4-2-110 defines a maximum
15 allowable density; it does not define either a minimum density or guarantee that all plats will achieve
16 the maximum density permitted under the zone. While it is unfortunate that the issue of the lot widths
17 was not addressed in a more timely fashion, the code requirements have not changed. Condition of
18 Approval 3 requires the Applicant to re-design the plat plan to provide for lots that meet the
19 minimum lot dimensional standards and submit the new plat plan for review and approval by the
20 Current Planning Project Manager prior to Construction Permit issuance. The proposed lots comply
21 with all other requirements of the R-4 zoning district as detailed by staff at page 7-9 of the staff
22 report, which is adopted and incorporated by this reference as if set forth in full.

23 As noted in the staff report and shown on the preliminary plat map (Ex. 2), each lot will access new
24 Roads A or B. No access will be permitted from NE 2nd Street. As discussed in Finding of fact 6(E),
25 proposed Road C will be eliminated and 152nd Avenue SE will be extended to meet Road B at the
26 western property boundary.

As noted in the Findings of Fact 5, there are no critical areas on the property. Consequently, the site
has physical characteristics suitable for development. As determined in the Finding of Fact No. 7 and
as conditioned, the proposal makes adequate provision for drainage, streets, water and sewer.

RMC 4-7-080(I)(1): *...The Hearing Examiner shall assure conformance with the general purposes
of the Comprehensive Plan and adopted standards...*

5. The proposed preliminary plat is consistent with the Renton Comprehensive Plan as outlined
in Section I(1) of the staff report, which is incorporated by this reference as if set forth in full. The
proposal is consistent with applicable subdivision regulations as outlined in detail in the other

1 conclusions of law in this decision. The proposal is consistent with applicable zoning standards and
2 design standards as outlined in Section I(2) and (3) of the staff report, adopted by this reference as if
3 set forth in full, excluding the staff's conclusions regarding lot width.

4 One design standard that was raised during the hearing regarded house orientation. Members of the
5 public expressed a desire to have the houses face NE 2nd Street as their front facade in order to
6 provide a better aesthetic and community feel to the existing neighborhood. The Applicant notes that
7 placing the front facade of the houses on Lots 12-14 towards NE 2nd Street is problematic, because
8 then the lots on the north portion of the plat will be facing the rear of the houses on Lots 12-14 from a
9 distance of only a 26' road, whereas the southern part of the property will have a landscape strip,
sidewalk, 15' landscape buffer with street trees, a privacy fence and a grade change. Staff stated that
the houses could be conditioned to face NE 2nd Street based on RMC 4-2-115-3, the primary entry
guidelines.

10 It is premature to address building orientation at this time. There is no information on proposed
11 building design and orientation and none of this information is expected or required during
12 subdivision review. RMC 4-2-115(3) regulates the orientation of single-family homes within
13 subdivisions and provides that "front doors shall face the street and be on the facade closest to the
14 street." Staff testified Road B is proposed to be less than a full street width, so they do not view it as a
15 street in the sense envisioned by RMC 4-2-115-3. However, staff's interpretation of RMC 4-2-115(3)
16 was "off the cuff" during the hearing and there is no indication whether this interpretation is
17 consistent with past applications and whether the interpretation is supported by the legislative history
18 of the regulation. Further, the required orientation of a home is dependent upon the location of
19 building facades. There is no information in the record on building design or proposed building
20 locations. None of this information is required or expected during subdivision review. RMC 4-2-
115(3) is a building design regulation that should be designed when building design is proposed and
can be evaluated, which is the building permit review stage of development. Consequently, the
resolution of this building design issue will be deferred to building permit review. The staff will be
required to provide notice of this application of RMC 4-2-115(3) to affected neighbors, so that they
have the opportunity to appeal the staff's application should they disagree with it.

21 One option of dealing with the orientation issue would be to relocate Road B to the northern
22 perimeter of the proposal. This would enable the Applicant to orient the homes along NE 2nd St. to
23 their neighbors to the south and the homes along Road B to face the park property to the north. Of
24 course, this redesign would have to comply with all City standards and staff would have to determine
25 whether the redesign would trigger additional public review. Of course, moving Road B further north
26 will require more frontage improvements along Rosario. If relocation of Road B is considered, staff
and the Applicant will have to work out whether the added improvements are worth resolving the
orientation issues.

1 **RMC 4-7-120(A):** *No plan for the replatting, subdivision, or dedication of any areas shall be*
2 *approved by the Hearing Examiner unless the streets shown therein are connected by surfaced road*
3 *or street (according to City specifications) to an existing street or highway.*

4 6. The internal circulation system of the subdivision, as conditioned, connects to NE 2nd Street
5 and 152nd Avenue SE (Rosario Ave NE).

6 **RMC 4-7-120(B):** *The location of all streets shall conform to any adopted plans for streets in the*
7 *City.*

8 7. As discussed in Finding of fact 6(E), City code requires extension of 152nd Avenue (Rosario
9 Avenue NE) with full frontage improvements along the west boundary of the site, adjacent to the
10 existing public right-of-way. However, the development of Road A to the north will accomplish the
11 same purpose by providing a northern connection through the subject site. As conditioned, proposed
12 Road C will be eliminated and 152nd Avenue SE will be extended to meet Road B at the western
13 property boundary.

14 **RMC 4-7-120(C):** *If a subdivision is located in the area of an officially designed [sic] trail,*
15 *provisions shall be made for reservation of the right-of-way or for easements to the City for trail*
16 *purposes.*

17 8. The staff report and administrative record do not identify any officially designated trail in the
18 vicinity.

19 **RMC 4-7-130(C):** *A plat, short plat, subdivision or dedication shall be prepared in conformance*
20 *with the following provisions:*

21 1. *Land Unsuitable for Subdivision: Land which is found to be unsuitable for subdivision includes*
22 *land with features likely to be harmful to the safety and general health of the future residents (such as*
23 *lands adversely affected by flooding, steep slopes, or rock formations). Land which the Department*
24 *or the Hearing Examiner considers inappropriate for subdivision shall not be subdivided unless*
25 *adequate safeguards are provided against these adverse conditions.*

26 a. *Flooding/Inundation: If any portion of the land within the boundary of a preliminary plat is*
subject to flooding or inundation, that portion of the subdivision must have the approval of the State
according to chapter 86.16 RCW before the Department and the Hearing Examiner shall consider
such subdivision.

b. *Steep Slopes: A plat, short plat, subdivision or dedication which would result in the creation of a*
lot or lots that primarily have slopes forty percent (40%) or greater as measured per RMC 4-3-

050J1a, without adequate area at lesser slopes upon which development may occur, shall not be approved.

...

3. Land Clearing and Tree Retention: Shall comply with RMC 4-4-130, Tree Retention and Land Clearing Regulations.

4. Streams:

a. Preservation: Every reasonable effort shall be made to preserve existing streams, bodies of water, and wetland areas.

b. Method: If a stream passes through any of the subject property, a plan shall be presented which indicates how the stream will be preserved. The methodologies used should include an overflow area, and an attempt to minimize the disturbance of the natural channel and stream bed.

c. Culverting: The piping or tunneling of water shall be discouraged and allowed only when going under streets.

d. Clean Water: Every effort shall be made to keep all streams and bodies of water clear of debris and pollutants.

9. As discussed in Conclusion of Law No. 4, the land is suitable for development. The property is not designated as a floodplain and there are no streams or steep slopes on site.

As discussed in Findings of Fact 8(G), there are significant trees on the site. The City's Urban Forester has made recommendations regarding the number of trees that must be retained or replaced. The Applicant has proposed to retain 18 trees and provide 103 replacement trees at 2-inch caliper. The City code requires 114 additional trees. As conditioned, the Applicant must provide an updated tree retention worksheet and planting plan that meets the minimum retention and/or replacement requirements.

RMC 4-7-140: Approval of all subdivisions located in either single family residential or multi-family residential zones as defined in the Zoning Code shall be contingent upon the subdivider's dedication of land or providing fees in lieu of dedication to the City, all as necessary to mitigate the adverse effects of development upon the existing park and recreation service levels. The requirements and procedures for this mitigation shall be per the City of Renton Parks Mitigation Resolution.

10. The MDNS requires the payment of Park and Recreation Impact fees.

RMC 4-7-150(A): The proposed street system shall extend and create connections between existing streets unless otherwise approved by the Public Works Department. Prior to approving a street

1 *system that does not extend or connect, the Reviewing Official shall find that such exception shall*
2 *meet the requirements of subsection E3 of this Section. The roadway classifications shall be as*
3 *defined and designated by the Department.*

4 11. As discussed in Conclusion of Law 7, as conditioned, the proposed internal street system
5 provides connectivity to NE 2nd Street and 152nd Avenue SE (Rosario Avenue NE) via proposed
6 Roads A and B. Proposed Road A stubs at the northern property boundary.

7 **RMC 4-7-150(B):** *All proposed street names shall be approved by the City.*

8 12. As conditioned.

9 **RMC 4-7-150(C):** *Streets intersecting with existing or proposed public highways, major or*
10 *secondary arterials shall be held to a minimum.*

11 13. The record does not contain any information on the classification of NE 2nd Street or 152nd
12 Ave SE, though neither road appears to be a public highway or major or secondary arterial. The
13 proposal as conditioned will eliminate proposed Road C, and extend proposed Road B to connect
14 with 152nd Ave SE, reducing the number of connections to the higher traveled road, NE 2nd Street.

15 **RMC 4-7-150(D):** *The alignment of all streets shall be reviewed and approved by the Public Works*
16 *Department. The street standards set by RMC 4-6-060 shall apply unless otherwise approved. Street*
17 *alignment offsets of less than one hundred twenty five feet (125') are not desirable, but may be*
18 *approved by the Department upon a showing of need but only after provision of all necessary safety*
19 *measures.*

20 14. As conditioned the road network will be redesigned and submitted for approval by the Public
21 Works Department. As noted in Finding of Fact 5, the present alignment of Road A could impact the
22 existing house across from the road's planned southern terminus. A condition will require the
23 Applicant and City to review the road location to determine if a better location for the southern
24 terminus can be found that will reduce potential impacts while maximizing traffic safety.

25 **RMC 4-7-150(E):**

26 1. *Grid: A grid street pattern shall be used to connect existing and new development and shall be the*
predominant street pattern in any subdivision permitted by this Section.

2. *Linkages: Linkages, including streets, sidewalks, pedestrian or bike paths, shall be provided within*
and between neighborhoods when they can create a continuous and interconnected network of roads
and pathways. Implementation of this requirement shall comply with Comprehensive Plan
Transportation Element Objective T-A and Policies T-9 through T-16 and Community Design
Element, Objective CD-M and Policies CD-50 and CD-60.

1
2 *3. Exceptions:*

3 *a. The grid pattern may be adjusted to a "flexible grid" by reducing the number of linkages or the*
4 *alignment between roads, where the following factors are present on site:*

5 *i. Infeasible due to topographical/environmental constraints; and/or*

6 *ii. Substantial improvements are existing.*

7 *4. Connections: Prior to adoption of a complete grid street plan, reasonable connections that link*
8 *existing portions of the grid system shall be made. At a minimum, stub streets shall be required*
9 *within subdivisions to allow future connectivity.*

10 *5. Alley Access: Alley access is the preferred street pattern except for properties in the Residential*
11 *Low Density land use designation. The Residential Low Density land use designation includes the*
12 *RC, R-1, and R-4 zones. Prior to approval of a plat without alley access, the Reviewing Official shall*
13 *evaluate an alley layout and determine that the use of alley(s) is not feasible...*

14 *6. Alternative Configurations: Offset or loop roads are the preferred alternative configurations.*

15 *7. Cul-de-Sac Streets: Cul-de-sac streets may only be permitted by the Reviewing Official where due*
16 *to demonstrable physical constraints no future connection to a larger street pattern is physically*
17 *possible.*

18 15. As recommended by staff, the Applicant will be required to extend Road B to Rosario and
19 eliminate Road C. This will eliminate the cul-de-sac discouraged by the regulations above and will
20 also foster the grid system encouraged by the regulations. As testified by staff, the connection to
21 Rosario was initially not required because it was believed that wetlands blocked the connection.
22 Since those wetlands were ultimately determined to not be present, the connectivity required by the
23 regulations above should be implemented.

24 **RMC 4-7-150(F):** *All adjacent rights-of-way and new rights-of-way dedicated as part of the plat,*
25 *including streets, roads, and alleys, shall be graded to their full width and the pavement and*
26 *sidewalks shall be constructed as specified in the street standards or deferred by the*
Planning/Building/Public Works Administrator or his/her designee.

16. As discussed in Conclusion of Law 30 and as conditioned, subject to the street modification
approval (Ex. 10), as amended herein.

RMC 4-7-150(G): *Streets that may be extended in the event of future adjacent platting shall be*
required to be dedicated to the plat boundary line. Extensions of greater depth than an average lot

1 *shall be improved with temporary turnarounds. Dedication of a full-width boundary street shall be*
2 *required in certain instances to facilitate future development.*

3 17. As conditioned and as discussed in Conclusion of Law 7.

4 **RMC 4-7-170(A):** *Insofar as practical, side lot lines shall be at right angles to street lines or radial*
5 *to curved street lines.*

6 18. As depicted in Ex. 2, the side lines as currently proposed are in conformance with the
7 requirement quoted above. However, as noted in Finding of Fact 6 and Conclusion of Law 3, the
8 Applicant will be required to re-design and resubmit the lot plan for the review and approval of the
9 Current Planning Project Manager prior to Construction Permit issuance to comply with lot
10 dimensional requirements. Compliance with this criterion will be reassessed at that time.

11 **RMC 4-7-170(B):** *Each lot must have access to a public street or road. Access may be by private*
12 *access easement street per the requirements of the street standards.*

13 19. As previously determined, each lot will have access to a public street or road via proposed
14 private Roads A and B.

15 **RMC 4-7-170(C):** *The size, shape, and orientation of lots shall meet the minimum area and width*
16 *requirements of the applicable zoning classification and shall be appropriate for the type of*
17 *development and use contemplated. Further subdivision of lots within a plat approved through the*
18 *provisions of this Chapter must be consistent with the then-current applicable maximum density*
19 *requirement as measured within the plat as a whole.*

20 20. Some of the lots of the proposed subdivision do not appear to comply with applicable lot
21 width requirements. RMC 4-2-110(A) requires a minimum lot width of 70 ft for interior lots and 80
22 feet for corner lots. Eight of the fourteen proposed lots do not meet the lot width requirements. The
23 Applicant testified that the lot configurations have not changed in 18 months and that Staff had never
24 brought up the lot width consideration before. Additionally, the Applicant stated they felt that their
25 request for street modification was also a request for relief from the requirement to meet the
26 minimum lot widths. The Applicant noted the lots were larger than the minimum size and met depth
27 requirements. The Applicant argued that RMC 4-2-110(D) Footnote No. 11 allows lots to be reduced
28 to 60 feet wide if necessary to meet achieve a density of four dwelling units per net acre. Staff argued
29 the Applicant will meet 4 dwelling units per acre without the variance and also that staff has granted
30 some modifications to street width requirements in order to enable the Applicant to achieve the 4
31 du/acre density.

32 **RMC 4-2-110(D)** does provide that "*lot ...width... may be reduced ...when due to lot configuration*
33 *or access, four (4) dwelling units per net acre cannot be achieved*". It is fairly self-evident from the

1 plat map of the proposal that the lot configuration cannot be altered in any meaningful way to achieve
2 compliance with lot width requirements. Consequently, the Applicant must be permitted to reduce lot
3 widths to 60 feet to the extent necessary to achieve a four dwelling per acre density. Staff testified
4 that the proposal already has achieved a density of four units per acre. There is no information in the
5 record that enables the Examiner to precisely verify that the density of the proposal has achieved a net
6 density of four units per acre as defined by RMC 4-11-040. Further, if the Applicant is required to
7 revise its plat to expand the lot widths to those required by RMC 4-2-110(A), there is nothing the
8 record to suggest that the proposal would continue to have a net density at or more than four units per
9 acre if it already does so presently. For these reasons, the proposal shall be conditioned to require
10 staff to verify that the net density is at four units per acre or more and that if that density is currently
11 achieved that the widths of substandard lots shall be reconfigured to required widths to the maximum
12 possible until a maximum density of 3.50¹ dwelling units per acre or more is achieved.

13 As noted in Finding of Fact 6 and Conclusion of Law 4, this criterion is not satisfied with respect to
14 lot width and lot width variation requirements (RMC 4-2-115). Condition of Approval 3, requires the
15 Applicant to re-design the plat plan to provide for lots that meet the minimum lot dimensional
16 standards and submit the new plat plan for review and approval by the Current Planning Project
17 Manager prior to Construction Permit issuance. The proposed lots comply with all other requirements
18 of the R-4 zoning district.

19 **RMC 4-7-170(D):** *Width between side lot lines at their foremost points (i.e., the points where the*
20 *side lot lines intersect with the street right-of-way line) shall not be less than eighty percent (80%) of*
21 *the required lot width except in the cases of (1) pipestem lots, which shall have a minimum width of*
22 *twenty feet (20') and (2) lots on a street curve or the turning circle of cul-de-sac (radial lots), which*
23 *shall be a minimum of thirty five feet (35').*

24 21. As conditioned.

25 **RMC 4-7-170(E):** *All lot corners at intersections of dedicated public rights-of-way, except alleys,*
26 *shall have minimum radius of fifteen feet (15').*

27 22. As conditioned.

28 **RMC 4-7-190(A):** *Due regard shall be shown to all natural features such as large trees,*
29 *watercourses, and similar community assets. Such natural features should be preserved, thereby*
30 *adding attractiveness and value to the property.*

31 _____
32 ¹ RMC 4-11-040 provides that density calculations resulting in a fraction of 0.50 or greater shall be rounded up to
33 the nearest whole number.

23. With the exception of the tree retention requirements discussed in Finding of fact 6(G) and Conclusion of Law 9, no natural features as described above are located at the project site.

RMC 4-7-200(A): *Unless septic tanks are specifically approved by the Public Works Department and the King County Health Department, sanitary sewers shall be provided by the developer at no cost to the City and designed in accordance with City standards. Side sewer lines shall be installed eight feet (8') into each lot if sanitary sewer mains are available, or provided with the subdivision development.*

24. As designed and as conditioned, the proposal provides for adequate sanitary sewer facilities in conformance with applicable City sanitary sewer standards as determined in Finding of Fact No. 8 (A).

RMC 4-7-200(B): *An adequate drainage system shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full-width roadway and required slopes. The drainage system shall be designed per the requirements of RMC 4-6-030, Drainage (Surface Water) Standards. The drainage system shall include detention capacity for the new street areas. Residential plats shall also include detention capacity for future development of the lots. Water quality features shall also be designed to provide capacity for the new street paving for the plat.*

25. The proposal provides for adequate drainage that is in conformance with applicable City drainage standards as determined in Finding of Fact No. 8 (C).

RMC 4-7-200(C): *The water distribution system including the locations of fire hydrants shall be designed and installed in accordance with City standards as defined by the Department and Fire Department requirements.*

26. As conditioned.

RMC 4-7-200(D): *All utilities designed to serve the subdivision shall be placed underground. Any utilities installed in the parking strip shall be placed in such a manner and depth to permit the planting of trees. Those utilities to be located beneath paved surfaces shall be installed, including all service connections, as approved by the Department. Such installation shall be completed and approved prior to the application of any surface material. Easements may be required for the maintenance and operation of utilities as specified by the Department.*

27. As conditioned.

RMC 4-7-200(E): *Any cable TV conduits shall be undergrounded at the same time as other basic utilities are installed to serve each lot. Conduit for service connections shall be laid to each lot line*

1 by subdivider as to obviate the necessity for disturbing the street area, including sidewalks, or alley
2 improvements when such service connections are extended to serve any building. The cost of
3 trenching, conduit, pedestals and/or vaults and laterals as well as easements therefore required to
4 bring service to the development shall be borne by the developer and/or land owner. The subdivider
5 shall be responsible only for conduit to serve his development. Conduit ends shall be elbowed to final
ground elevation and capped. The cable TV company shall provide maps and specifications to the
subdivider and shall inspect the conduit and certify to the City that it is properly installed.

6 28. As conditioned.

7 **RMC 4-7-210:**

8 *A. MONUMENTS:*

9
10 Concrete permanent control monuments shall be established at each and every controlling corner of
11 the subdivision. Interior monuments shall be located as determined by the Department. All surveys
shall be per the City of Renton surveying standards.

12 *B. SURVEY:*

13 All other lot corners shall be marked per the City surveying standards.

14 *C. STREET SIGNS:*

15 The subdivider shall install all street name signs necessary in the subdivision.

16 29. As conditioned.

17
18 **RMC 4-9-250(C)(5):** Decision Criteria for Waivers of Street Improvements: Reasonable
19 justification shall include but not be limited to the following:

20 *a. Required street improvements will alter an existing wetlands or stream, or have a
negative impact on a shoreline's area.*

21 *b. Existing steep topography would make required street improvements infeasible.*

22 *c. Required street improvements would have a negative impact on other properties, such as
23 restricting available access.*

24 *d. There are no similar improvements in the vicinity and there is little likelihood that the
25 improvements will be needed or required in the next ten (10) years.*

1 *e. In no case shall a waiver be granted unless it is shown that there will be no detrimental*
2 *effect on the public health, safety or welfare if the improvements are not installed, and that*
3 *the improvements are not needed for current or future development.*

4 30. The dedication requirements of RMC 4-6-060(E1) and street improvement requirements of
5 RMC 4-6-060(C) are waived to the extent that they apply to Rosario north of its connection with
6 Road B. requires the extension full of street improvements along the entire border of any
7 development site adjacent to a public right of way. The waiver is justified under RMC 4-9-
8 250(C)(5)(d) because Rosario is not improved to the north and as determined in the findings of fact it
9 is unlikely that Rosario will ever be improved north of Road B because of development to the north.
10 No detrimental effect on the public health, safety or welfare if the improvements are anticipated by
11 the waiver and the waived improvements are not needed since connectivity to properties to the north
12 is assured by Road A. The administrative record contains absolutely no justification for any
13 modifications to the street standards of Road B. There is nothing apparent from the record that
14 establishes how the proposed deviations from Road B standards satisfies the criteria of RMC 4-9-
15 250(C)(5). Especially as a through street that serves as part of the areas street grid system, there is no
16 apparent reason why Road B should be designed differently than any other residential access street. It
17 is far from clear, but one reason staff may have justified the Road B waiver is in order to enable the
18 Applicant to achieve a higher density. This by itself does not serve as sufficient grounds to justify a
19 waiver under RMC 4-9-250(C)(5). Since the RMC authorizes the staff to make a final decision on
20 street waiver requests and there may be a valid reason why the requests for Road B deviations should
21 be approved, the requested deviations to Road B standards are denied without prejudice so that staff
22 may review the request on its own and make its own record for establishing compliance with RMC 4-
23 9-250(C)(5).
24

25 **DECISION**

26 The requested street modifications are approved and denied in part as outlined in Conclusion of Law
No. 30. The proposed preliminary plat is approved, subject to the following conditions:

1. The Applicant shall comply with the four mitigation measures issued as part of the Determination of Non-Significance Mitigated, dated September 24, 2012.
2. The site contains two existing easements for road and utilities per LLA489033, 5872161, 5958267, and restated by Rec. No. 8410250053. The Applicant shall provide proof of relinquish of the subject easements to the Current Planning Project Manager prior to final plat recording.
3. A final detailed landscape plan shall be submitted to and approved by the Current Planning Project Manager prior to Final Plat recording.

4. The Applicant shall provide an updated tree retention worksheet, tree retention plan and planting plan that meet the minimum retention and/or replacement requirements of RMC 4-4-130. The above plan sets and worksheet shall be submitted to the Current Planning Project Manager for review and approval prior to construction permit issuance.
5. The Applicant shall provide screening landscaping along the perimeter of Tract A. A landscaping plan shall be submitted for review and approval by the Current Planning Project Manager prior to Construction Permit issuance. Screening landscaping shall be required to be installed and inspected prior to final plat recording.
6. A water availability certificate will be required to be submitted to the City prior to or along with Construction Permit Application.
7. Staff will apply the design standard related to primary entry (RMC 4-2-115-3) during building permit review or whenever this issue is normally addressed by staff. Notice of the staff's decision on application of RMC 4-2-115(3) along with associated appeal rights shall be mailed to all property owners on the southern side of NE 2nd St that are facing the proposal at the time the decision is made.
8. Staff shall determine the net density of the proposed subdivision as defined by RMC 4-11-040. If the proposal exceeds 3.50 du/acre, the Applicant shall, to the maximum extent possible and as approved by staff, increase the substandard lot widths (up to required widths) to reduce the density to 3.50 du/acre.
9. Road C shall be eliminated and Road B shall be extended to Rosario. Road B shall comply with all applicable road standards unless a waiver is approved by staff. Road B may be moved to the northern perimeter of the plat in order to resolve the home orientation issues addressed in Finding of Fact No. 5 if determined by staff to comply with all applicable development standards and that the redesign would not trigger additional public review.

DATED this 9th day of November, 2012.

ls\ Phil Olbrechts (Signed original in official file)

Phil A. Olbrechts
City of Renton Hearing Examiner

Appeal Right and Valuation Notices

RMC 4-8-110(E)(9) provides that the final decision of the hearing examiner is subject to appeal to the Renton City Council. RMC 4-8-110(E)(9) requires appeals of the hearing examiner's decision to be filed within fourteen (14) calendar days from the date of the hearing examiner's decision. A

1 request for reconsideration to the hearing e examiner may also be filed within this 14 day appeal
2 period as identified in RMC 4-8-110(E)(8) and RMC 4-8-100(G)(4). A new fourteen (14) day
3 appeal period shall commence upon the issuance of the reconsideration. Additional information
4 regarding the appeal process may be obtained from the City Clerk's Office, Renton City Hall – 7th
5 floor, (425) 430-6510.

6 Affected property owners may request a change in valuation for property tax purposes
7 notwithstanding any program of revaluation.
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